

AMENDED IN ASSEMBLY MAY 16, 2006
AMENDED IN ASSEMBLY MARCH 27, 2006
AMENDED IN ASSEMBLY MARCH 2, 2006
AMENDED IN SENATE MAY 27, 2005
AMENDED IN SENATE MAY 3, 2005
AMENDED IN SENATE APRIL 20, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 151

Introduced by Senator Soto

February 7, 2005

An act to amend Sections 374.2, 374.3, 374.4, 374.7, 374a, and 374d of the Penal Code, relating to public health and safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 151, as amended, Soto. Public health: illegal dumping.

Existing law makes it illegal to maliciously dump harmful substances in places not intended to be used as a deposit for harmful substances.

This bill would provide that any vehicle used to illegally dump harmful substances may be impounded, as specified.

Existing law makes the illegal dumping of waste on public or private property an infraction.

This bill would make the illegal dumping of waste on public or private property a misdemeanor and would provide that any vehicle used to illegally dump waste on public or private property may be impounded, as specified.

Existing law makes it an infraction to litter on public or private property.

This bill would make it a misdemeanor to litter on public or private property and would provide that any vehicle used to unlawfully litter on public or private property may be impounded, as specified.

Existing law imposes a minimum \$100 fine when a person is convicted of littering on a waterway.

This bill would increase the minimum fine for the unlawful littering on a waterway to \$250 and would provide that any vehicle used to unlawfully litter on a waterway may be impounded, as specified.

Existing law makes it a misdemeanor to dispose of the carcass of a dead animal in a public area.

This bill would provide that the punishment for the unlawful disposal of the carcass of a dead animal in a public area shall be increasing mandatory fines, as specified, and would provide that any vehicle used to unlawfully dispose of the carcass of a dead animal in a public area may be impounded, as specified.

By revising the penalties for existing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 374.2 of the Penal Code is amended to
2 read:
3 374.2. (a) It is unlawful for any person to maliciously
4 discharge, dump, release, place, drop, pour, or otherwise deposit,
5 or to maliciously cause to be discharged, dumped, released,
6 placed, dropped, poured, or otherwise deposited, any substance
7 capable of causing substantial damage or harm to the operation
8 of a public sewer sanitary facility, or to deposit in commercial
9 quantities any other substance, into a manhole, cleanout, or other
10 sanitary sewer facility, not intended for use as a point of deposit

1 for sewage, which is connected to a public sanitary sewer system,
2 without possessing a written authorization therefor granted by the
3 public entity which is charged with the administration of the use
4 of the affected public sanitary sewer system or the affected
5 portion of the public sanitary sewer system.

6 As used in this section, “maliciously” means an intent to do a
7 wrongful act.

8 (b) For the purposes of this section, “person” means an
9 individual, trust, firm, partnership, joint stock company, limited
10 liability company, or corporation, and “deposited in commercial
11 quantities” refers to any substance deposited or otherwise
12 discharged in any amount greater than for normal domestic sewer
13 use.

14 (c) Lack of specific knowledge that the facility into which the
15 prohibited discharge or release occurred is connected to a public
16 sanitary sewer system shall not constitute a defense to a violation
17 charged under this section.

18 (d) Any person who violates this section shall be punished by
19 imprisonment in the county jail for not more than one year, or by
20 a fine of up to twenty-five thousand dollars (\$25,000), or by both
21 a fine and imprisonment. If the conviction is for a second or
22 subsequent violation, the person shall be punished by
23 imprisonment in the county jail for not more than one year, or
24 imprisonment in the state prison for 16, 20, or 24 months, and by
25 a fine of not less than five thousand dollars (\$5,000) or more than
26 twenty-five thousand dollars (\$25,000).

27 (e) Any vehicle used to illegally dump refuse in violation of
28 this section may be impounded pursuant to subdivision (a) of
29 Section 22655.5 or Section 14602.6 of the Vehicle Code. All
30 expenses and fees shall be incurred by the violator.

31 SEC. 2. Section 374.3 of the Penal Code is amended to read:

32 374.3. (a) It is unlawful to dump or cause to be dumped any
33 waste matter in or upon any public or private highway or road,
34 including any portion of the right-of-way thereof, or in or upon
35 any private property into or upon which the public is admitted by
36 easement or license, or upon any private property without the
37 consent of the owner, or in or upon any public park or other
38 public property other than property designated or set aside for
39 that purpose by the governing board or body having charge of
40 that property.

1 (b) It is unlawful to place, deposit, or dump, or cause to be
2 placed, deposited, or dumped, *as refuse*, any rocks, concrete,
3 asphalt, or dirt in or upon any private highway or road, including
4 any portion of the right-of-way thereof, or any private property,
5 without the consent of the owner, or in or upon any public park
6 or other public property, without the consent of the state or local
7 agency having jurisdiction over the highway, road, or property.

8 (c) Any person violating this section is guilty of a
9 misdemeanor. Each day that waste placed, deposited, or dumped
10 in violation of subdivision (a) or (b) of this section remains is a
11 separate violation.

12 (d) This section does not restrict a private owner in the use of
13 his or her own private property, unless the placing, depositing, or
14 dumping of the waste matter on the property creates a public
15 health and safety hazard, a public nuisance, or a fire hazard, as
16 determined by a local health department, local fire department or
17 district providing fire protection services, or the Department of
18 Forestry and Fire Protection, in which case this section applies.

19 (e) A person convicted of a violation of this section shall be
20 punished by a mandatory fine of not less than two hundred fifty
21 dollars (\$250) nor more than one thousand dollars (\$1,000) upon
22 a first conviction, by a mandatory fine of not less than five
23 hundred dollars (\$500) nor more than one thousand dollars
24 (\$1,000) upon a second conviction, and by a mandatory fine of
25 not less than seven hundred fifty dollars (\$750) nor more than
26 two thousand five hundred dollars (\$2,500) upon a third or
27 subsequent conviction. If the court finds that the waste matter
28 placed, deposited, or dumped was used tires, the fine prescribed
29 in this subdivision shall be doubled.

30 (f) The court may require, in addition to any fine imposed
31 upon a conviction, that, as a condition of probation and in
32 addition to any other condition of probation, a person convicted
33 under this section remove, or pay the cost of removing, any waste
34 matter which the convicted person dumped or caused to be
35 dumped upon public or private property.

36 (g) Except when the court requires the convicted person to
37 remove waste matter which he or she is responsible for dumping
38 as a condition of probation, the court may, in addition to the fine
39 imposed upon a conviction, require as a condition of probation,
40 in addition to any other condition of probation, that any person

1 convicted of a violation of this section pick up waste matter at a
2 time and place within the jurisdiction of the court for not less
3 than 12 hours.

4 (h) (1) Any person who places, deposits, or dumps, or causes
5 to be placed, deposited, or dumped, waste matter in violation of
6 this section in commercial quantities shall be guilty of a
7 misdemeanor punishable by imprisonment in a county jail for not
8 more than six months and by a fine. The fine is mandatory and
9 shall amount to not less than one thousand dollars (\$1,000) nor
10 more than three thousand dollars (\$3,000) upon a first conviction,
11 not less than three thousand dollars (\$3,000) nor more than six
12 thousand dollars (\$6,000) upon a second conviction, and not less
13 than six thousand dollars (\$6,000) nor more than ten thousand
14 dollars (\$10,000) upon a third or subsequent conviction.

15 (2) "Commercial quantities" means an amount of waste matter
16 generated in the course of a trade, business, profession, or
17 occupation, or an amount equal to or in excess of one cubic yard.
18 This subdivision does not apply to the dumping of household
19 waste at a person's residence.

20 (i) For purposes of this section, "person" means an individual,
21 trust, firm, partnership, joint stock company, joint venture, or
22 corporation.

23 (j) Except in unusual cases where the interests of justice would
24 be best served by waiving or reducing a fine, the minimum fines
25 provided by this section shall not be waived or reduced.

26 (k) Any vehicle used to illegally dump waste in violation of
27 this section may be impounded pursuant to subdivision (a) of
28 Section 22655.5 or Section 14602.6 of the Vehicle Code. All
29 expenses and fees shall be incurred by the violator.

30 SEC. 3. Section 374.4 of the Penal Code is amended to read:

31 374.4. (a) It is unlawful to litter or cause to be littered in or
32 upon any public or private property. Any person, firm, or
33 corporation violating this section is guilty of a misdemeanor.

34 (b) This section does not restrict a private owner in the use of
35 his or her own property, unless the littering of waste matter on
36 the property creates a public health and safety hazard, a public
37 nuisance, or a fire hazard, as determined by a local health
38 department, local fire department or district providing fire
39 protection services, or the Department of Forestry and Fire
40 Protection, in which case this section applies.

(c) As used in this section, “litter” means the discarding, dropping, or scattering of small quantities of waste matter ordinarily carried on or about the person, including, but not limited to, beverage containers and closures, packaging, wrappers, wastepaper, newspapers, and magazines, in a place other than a place or container for the proper disposal thereof, and including waste matter which escapes or is allowed to escape from a container, receptacle, or package.

(d) A person, firm, or corporation convicted of a violation of this section shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000) upon a third or subsequent conviction.

(e) The court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than eight hours.

(f) Any vehicle used to litter in violation of this section may be impounded pursuant to subdivision (a) of Section 22655.5 or Section 14602.6 of the Vehicle Code. All expenses and fees shall be incurred by the violator.

SEC. 4. Section 374.7 of the Penal Code is amended to read:

374.7. (a) Every person who litters or causes to be littered, or dumps or causes to be dumped, any waste matter into any bay, lagoon, channel, river, creek, slough, canal, lake, or reservoir, or other stream or body of water, or upon a bank, beach, or shore within 150 feet of the high water mark of any stream or body of water, is guilty of a misdemeanor.

(b) Every person convicted of a violation of subdivision (a) shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$750) nor more

1 than one thousand dollars (\$1,000) upon a third or subsequent
2 conviction.

3 (c) The court may, in addition to the fine imposed upon a
4 conviction, require as a condition of probation, in addition to any
5 other condition of probation, that any person convicted of a
6 violation of subdivision (a), pick up litter at a time and place
7 within the jurisdiction of the court for not less than eight hours.

8 (d) Any vehicle used to litter in violation of this section may
9 be impounded pursuant to subdivision (a) of Section 22655.5 *or*
10 *Section 14602.6* of the Vehicle Code. All expenses and fees shall
11 be incurred by the violator.

12 SEC. 5. Section 374a of the Penal Code is amended to read:

13 374a. Every person giving information leading to the arrest
14 and conviction of any person for a violation of Section 374.2,
15 374.3, 374.4, 374.7, 374c, or 374d is entitled to a reward
16 therefor.

17 The amount of the reward for each arrest and conviction shall
18 be 50 percent of the fine levied against and collected from the
19 person who violated Section 374.2, 374.3, 374.3, 374.7, 374c, or
20 374d and shall be paid by the court. If the reward is payable to
21 two or more persons, it shall be divided equally. The amount of
22 collected fine to be paid under this section shall be paid prior to
23 any distribution of the fine that may be prescribed by any other
24 section, including Section 1463.9, with respect to the same fine.

25 SEC. 6. Section 374d of the Penal Code is amended to read:

26 374d. (a) Every person who knowingly allows the carcass of
27 any dead animal which belonged to him or her at the time of its
28 death to be put, or to remain, within 100 feet of any street, alley,
29 public highway, or road in common use, and every person who
30 puts the carcass of any dead animal within 100 feet of any street,
31 alley, highway, or road in common use is guilty of a
32 misdemeanor.

33 (b) Every person convicted of a violation of subdivision (a)
34 shall be punished by a mandatory fine of not less than two
35 hundred fifty dollars (\$250) nor more than one thousand dollars
36 (\$1,000) upon a first conviction, by a mandatory fine of not less
37 than five hundred dollars (\$500) nor more than one thousand
38 dollars (\$1,000) upon a second conviction, and by a mandatory
39 fine of not less than seven hundred fifty dollars (\$750) nor more

1 than one thousand dollars (\$1,000) upon a third or subsequent
2 conviction.

3 (c) The court may, in addition to the fine imposed upon a
4 conviction, require as a condition of probation, in addition to any
5 other condition of probation, that any person convicted of a
6 violation of subdivision (a), pick up litter at a specified time and
7 place within the jurisdiction of the court for not less than eight
8 hours.

9 (d) Any vehicle used to illegally dump carcasses in violation
10 of this section may be impounded pursuant to subdivision (a) of
11 Section 22655.5 or Section 14602.6 of the Vehicle Code. All
12 expenses and fees shall be incurred by the violator.

13 SEC. 7. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the
18 penalty for a crime or infraction, within the meaning of Section
19 17556 of the Government Code, or changes the definition of a
20 crime within the meaning of Section 6 of Article XIII B of the
21 California Constitution.